

these tracks and eliminating the essential discourse and deliberation necessary to establish sound public policy is not in the Federal taxpayers interest. Nevertheless, here we are again, faced with the necessity of approving appropriations for military construction with an enormous pork program attached at the last minute. All the more problematic is that this same piece of legislative text was included in the failed energy bill. The Senate rejected this provision then, but we are unable to do it again, as it was snuck into a conference report on a totally unrelated bill. It is a clear violation of the legislative process, specifically Rule 28, and it's simply wrong.

My objections to the Alaska pipeline provision are not only procedural. Many of my colleagues may not be aware that what they are approving here is an economic cushion for three extremely wealthy corporations. Undoubtedly, these three corporations have the financial resources to proceed with this project without taxpayers' dollars, but once again, we will manage to provide generous financial incentives to corporate interests with public funds. These selective subsidies are clearly inequitable and contrary to the interests of the rest of American taxpayers.

The sponsor of this provision may maintain that the American public will benefit from the natural gas supply that may flow through this pipeline years from now. Undoubtedly, if the supply is there, the consumers will be, too. And that is my point. This is an economic venture that will yield significant profits for those companies involved. It is my understanding that as a result of the financial promise of this venture that there are other companies that would very much like to be involved. What this provision does is to codify the terms set by these three corporations to provide an even sweeter opportunity with \$18 billion in federally backed loan guarantees.

These loan guarantees are the thick rich icing on the tax break cake included in the FSC-ETI conference report, which also passed today. Tax breaks totaling \$445 million are provided for pipeline construction and gas processing, again directed to the same corporations, which together have shown after-tax profits of \$95 billion since 2001. I am certain that American taxpayers do not appreciate paying twice for their expensive energy supplies. Once at the pump and for their home heating bills, and then again for tax subsidies to profitable energy subsidies.

Also contained in this legislation is funding for drought assistance. I sympathize with the proponents of this agricultural disaster assistance and I do not question that drought and abrupt changes in climate are having a severe impact on the crops grown in the states covered in this conference report. While I do agree that prolonged drought and other natural disasters are

having devastating effects on many Americans and sectors of our economy, crop assistance does not belong on Military Construction funding legislation.

When the Senate considers legislation to address drought-induced and other climate damages, shouldn't all affected states receive assistance? How are we to say that one group of people or sector of our economy deserves financial assistance over another? According to the Congressional Research Service, Congress provided about \$3 billion in assistance for crop and livestock losses in 2001 and 2002. Coupled with all the other billions in agricultural subsidies, American taxpayers could conclude that Congress has determined, without clear deliberation, that this is the priority need.

There are many States, including Arizona, that are facing terrible drought-induced problems and do not receive assistance in this conference report. Destructive wildfires have spread through the Western United States because of the dry conditions there, causing billions of dollars in property and resource damage. Drought-induced insect infestations have increased wildfire risks to our communities and natural resources. Water levels in reservoirs in our parched states have dropped dramatically, reducing water supplies, causing millions of dollars in losses to the recreation and tourism industries and reducing hydropower generation. In some areas, the lack of precipitation and water supply recharge, has resulted in wells running dry. I can't think of a more disastrous situation than that. However, the people who fall into these categories are not covered by the drought assistance provisions.

I have found this report contains 62 earmarks totaling \$98.7 million. I am also troubled by a provision in the explanatory statement that accompanies this conference report. According to the explanatory statement, "The language and allocations set forth in House Report 108-607 and Senate Report 108-309 should be complied with unless specifically addressed to the contrary in the conference report and statement of the managers." This has the composite effect of essentially doubling the number of earmarks in the Military Construction Appropriations Act. As legislators we are often forced to make difficult budgetary decisions. However, in the instance of this conference report, the most difficult decisions were avoided. With looming budget deficits, it is as important as ever to practice fiscal responsibility and avoid the practice of earmarks.

The above statement ensures all \$44.7 million in earmarks added by the Senate as well as the \$38.5 million in earmarks contained in the House version of this legislation. As I stated when we considered that legislation, nearly all of these earmarks are funded under the minor construction account. Normally, this account is intended to be used for

urgent and unforeseen requirements and therefore neither the President's budget nor the authorizing committees identify specific projects to be funded. Once the Services decide to spend the money, the authorizing and appropriations committees must approve or disapprove of the minor construction project to which the Services plan to fund. By earmarking the funds in the minor construction account, the appropriators have usurped the authority of the authorizing committee to approve or reject these projects. I can only hope that next year, when the appropriators stray from this practice.

With the passage of the conference report to the fiscal year 2005 Defense Authorization Act, the legislative branch has once again affirmed its support for the important round of base closure and realignment that will occur next year. With this being an election year and Member's parochial concerns being as strong as ever, I am encouraged to see that my colleagues have resisted the temptation to add pork to bases in their states in what would be a misguided effort to save their bases from base closure. Such efforts would be a waste of taxpayer money, and would not prevent their base from being closed.

I commend the chairman of the Military Construction Subcommittee, Senator HUTCHISON, and the ranking member, Senator FEINSTEIN, for their hard work on this bill and their continued support for our military. Their attention and commitment to only supporting high priority projects for the Navy, Marine Corps, Army, and Air Force is once again exemplary and provide for a sound measure to fund military construction in the coming fiscal year. I only wish they were able to hold to the Senate version of this legislation and were able to keep extraneous non-military construction provisions out of this conference report.●

The PRESIDING OFFICER. Under the previous order, the vote on the motion to invoke cloture is vitiated.

The question is on agreeing to the report to accompany H.R. 4837.

The conference report was agreed to.

#### CORRECTING THE ENROLLMENT OF H.R. 4837

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to consideration of S. Con. Res. 144, which the clerk will report by title.

The assistant legislative clerk read as follows:

A resolution (S. Con. Res. 144) to correct the enrollment of H.R. 4837.

The PRESIDING OFFICER. Under the previous order, the concurrent resolution is agreed to and the motion to reconsider will be laid upon the table.

The concurrent resolution (S. Con. Res. 144) was agreed to, as follows:

S. CON. RES. 144

*Resolved by the Senate (the House of Representatives concurring).* That in the enrollment of H.R. 4837, an Act making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes, the Clerk of the House is hereby authorized and directed to strike subsections (e) and (f) of section 101 of division B and insert the following new subsection:

(e) The amounts provided or made available by this section are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

#### INSTRUCTING CONFEREES ON AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION

The PRESIDING OFFICER. Under the previous order the Senate will proceed to consideration of S. Res. 465, which the clerk will report by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 465) to instruct conferees to the Agriculture, Rural Development, Food and Drug Administration, and related agencies appropriations bill, 2005, or on a consolidated appropriations measure that includes the substance of that act.

The PRESIDING OFFICER. Under the previous order, the resolution is agreed to, and the motion to reconsider is laid upon the table.

The resolution (S. Res. 465) was agreed to, as follows:

S. RES. 465

*Resolved,* That for the purpose of restoring the provisions governing the Conservation Security Program to those enacted in the Farm Security and Rural Investment Act and restoring the practice of treating agricultural disaster assistance as emergency spending, the Senate instructs conferees to the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill, 2005, or a Consolidated Appropriations Measure that includes the substance of that act, to insist that the conference report contain legislative language striking subsections (e) and (f) of section 101 of division B of H.R. 4837, An Act Making Appropriations for Military Construction, Family Housing, and Base Realignment and Closure for the Department of Defense for the Fiscal Year ending September 30, 2005 and for Other Purposes.

#### DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2005—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of the conference report to accompany H.R. 4567, which the clerk will report.

The assistant legislative clerk read as follows:

Conference report accompanying (H.R. 4567), making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005.

The PRESIDING OFFICER. Under the previous order, the vote on the motion to invoke cloture is vitiated.

Mr. COCHRAN. Mr. President, I am pleased to present for the Senate's approval today the conference report on H.R. 4567, the fiscal year 2005 Homeland Security Appropriations Act.

The conference agreement provides total new budget authority for the Department of \$33.1 billion. Of the amount provided for fiscal year 2004, \$32 billion is for discretionary programs.

To further strengthen the capacity of the Nation's first responders to prepare for and respond to possible terrorist threats and other emergencies, this conference report provides a total of \$3.9 billion for the Office for State and Local Government Coordination and Preparedness, including: \$1.1 billion for the State and local formula-based grant program; \$400 million for law enforcement terrorism prevention grants; \$885 million for high-threat, high-density, urban area grants; \$150 million for port security grants; \$150 million for rail and transit security grants; and \$715 million for the firefighter assistance grant program, of which \$65 million is set-aside to begin implementing the SAFER Act. The conference report also includes a separate appropriation of \$180 million for emergency management performance grants.

The conference report includes a total of \$5.1 billion for the Transportation Security Administration, furthering our commitment to secure all modes of transportation. The conference committee made air cargo security a priority and provides \$115 million for air cargo security, an increase of \$30 million from the President's request. This funding will allow the Department to enhance its efforts to target and prohibit the transportation of high-risk cargo on passenger aircraft; as well as to advance efforts to research, develop, and procure the most effective and efficient air cargo inspection and screening systems. In addition, there is a statutory requirement for the tripling of cargo inspections on passenger aircraft.

Additionally, \$8.8 billion is provided to secure our Nation's borders; \$5.5 billion is provided for emergency preparedness and response; \$7.37 billion for the Coast Guard; and \$2 billion for research, analysis, and infrastructure protection. To increase rail security the conference report provides \$172 million for rail compliance inspectors; canine explosive detection teams; rail, freight, and transit security grants; vulnerability assessments; and research and development of technologies to prevent suicide bombers. A total of \$662 million is provided for the Federal Air Marshals, \$50 million more than the requested amount.

A matter of concern to some of my colleagues are the items funded through the offset provided by the extension of the customs user fees. The largest single item that was funded through this mechanism was speeding up the development and deployment of permanent airwings across our north-

ern border. Unfortunately, once the customs user fee extension was dropped from this bill, we lost the offset available to enhance funding for these important items and not exceed the fiscal constraints placed on our subcommittee.

The conference committee met on Thursday, October 7, 2004, and the conference report was filed on Saturday, October 9, 2004. It was adopted by the House of Representatives later that day by a vote of 368 yeas to zero nays. Senate passage of this conference report today will send this fiscal year 2005 appropriations bill to the President for signature into law.

In closing, I thank the ranking member of the subcommittee, my colleague from West Virginia, Senator BYRD; the chairman of the House subcommittee, Mr. ROGERS; and the ranking member of the House subcommittee, Mr. SABO, for their substantial contributions to this bill throughout the year. It has taken many hours of hard work by these Members and their staff members to bring this bill to a successful conclusion. I would also like to thank the chairmen ranking members of the House and Senate full Appropriations Committees and their staff members for the assistance and guidance they have provided to us throughout the process.

I recommend the adoption of the conference report.

Mr. BYRD. Mr. President. I thank Chairman THAD COCHRAN, the House chairman, HAROLD ROGERS, Representative MARTIN SABO, Representative DAVID OBEY, and all of the House and Senate conferees for their hard work on this important legislation. We all share the goal of ensuring that the new Department of Homeland Security has the resources it needs to secure the homeland.

I also commend the thousands of men and women who are on the front lines of homeland security. While I remain very concerned that we are not giving these men and women the tools they need to do their jobs, that in no way detracts from their commitment to serve the Nation every hour of every day.

It is particularly appropriate for us to be considering this legislation as Congress reviews the recommendations of the 9/11 Commission. The President, the Vice President, the Attorney General, the Secretary of Homeland Security, the FBI Director, and the CIA Director invoke the threat of another terrorist attack on an almost weekly basis. The 9/11 Commission concluded that on September 11, 2001, our government agencies were not prepared to deter or respond to such attacks. We are still not prepared to deter or respond to such attacks.

In light of all of these threats, one might anticipate that the President would have amended his anemic 2-percent proposed increase for the Department of Homeland Security. One might have anticipated that the President,